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U.S. DISTRICT COURT E.D.N.Y.

★ JAN 14 2015 ★

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

LONG ISLAND OFFICE

**CV 15 0187**

Tracy Kreutel and Donald  
Kreutel

**Plaintiff**

Docket No.

**SEYBERT, J  
LINDSAY, M.**

**-against-**

Richard Sokoloff

**Defendant**

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

**X**

**Unlawful Debt Collection Practices**

**TRIAL BY JURY DEMANDED**

Plaintiffs, by their attorney Joseph Mauro, complaining of the Defendant respectfully alleges and shows to the Court as follows:

**I. INTRODUCTION**

1. The Defendant is a debt collector who leaves debt collection messages on consumers' answering machines without regard for who may hear the messages. Plaintiffs bring this action seeking redress for the Defendant's violation of the Plaintiffs' privacy rights afforded under the Fair Debt Collection Practices Act. (15 USC 1692 et seq). Defendant left messages on an answering machine at Plaintiff's residence announcing that Defendant was attempting to collect a debt from Plaintiff Donald Kreutel. The messages that Defendant left on Plaintiffs' answering machine were audible to anyone within listening distance of the answering machine at the time the messages are being left. Plaintiffs' friend who was temporarily living at the Plaintiffs' home heard at least one such message. Defendant's message indicated that they were a debt collector attempting to collect a debt from Donald Kruetel. Additionally, Defendants sent the Plaintiffs a debt

collection form letter that falsely indicates that both Donald Kruetel and Tracy Krutel are responsible for the alleged debt. The form letter appears on a letterhead indicating that the letter is coming from a law firm, despite the fact that the letter appears to be a form letter which, upon information and belief, was not meaningfully reviewed by an attorney prior to being sent to Plaintiffs.

2. This is an action for damages brought by an individual consumer for violations of the Fair Debt Collection Practices Act, 15 U.S.C. 1692, et seq. (hereinafter "FDCPA") which prohibits debt collectors from engaging in abusive, deceptive and unfair practices; as well as for violations of common law.

3. According to 15 U.S.C. 1692:

- (a) There is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to **invasions of individual privacy**. (emphasis added)
- (b) Existing laws and procedures for redressing these injuries are inadequate to protect consumers.
- (c) Means other than misrepresentation or other abusive debt collection practices are available for the effective collection of debts.
- (d) Abusive debt collection practices are carried on to a substantial extent in interstate commerce and through means and instrumentalities of such commerce. Even where abusive debt collection practices are purely intrastate in character, they nevertheless directly affect interstate commerce.
- (e) It is the purpose of this title to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.

## **II. JURISDICTION AND VENUE**

4. Jurisdiction of this Court arises under 15 U.S.C Section 1692k (d), 28 U.S.C Section 1337. Venue in this District is proper in that the Defendants transact business here and the conduct complained of occurred here.

## **III. PARTIES**

5. Plaintiffs, Tracy Kreutel and Donald Kreutel are natural persons residing in Suffolk County, New York. Plaintiffs are married. Plaintiffs are consumers as defined by the FDCPA.

6. Defendant is a debt collection company engaged in the business of collecting debts in this state. The principal purpose of Defendant is the collection of debts using the mails and telephone, and Defendant regularly attempts to collect debts alleged to be due another.

7. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. Section 1692a(6).

## **IV. FACTUAL ALLEGATIONS**

8. Plaintiff repeats paragraphs "1" through "7" as if fully restated herein.

9. The Defendant alleges that the Plaintiff owes a consumer debt (the debt). ("the debt" or "the alleged debt") The alleged debt of Plaintiffs is a "debt" as defined by 15 USC 1692a in that it is a debt alleged to be owed for personal, family, or household services.

The Plaintiffs do not operate any business and as such have no business related debt of any nature. The alleged debt is a medical debt.

10. At some point unknown to Plaintiffs, Defendant alleges to have acquired the legal right to collect the alleged debt. Plaintiffs have had no business relationship with Defendant and is not aware of any documents establishing Defendant's alleged right to attempt to collect the alleged debt.

11. Before leaving the message announcing that they were debt collectors, the Defendant was aware that there was a possibility that people other than the Plaintiffs may hear the message, as the Defendant's message actually alludes to such a possibility. The Defendant chose to ignore the risk and leave such a message.

12. The Defendant left messages for the Plaintiffs on an answering machine in which they announced that they were a debt collector.

13. The Defendant left the following messages on an answering machine located in the Plaintiffs' residence:

Mr. Name is Mr. Frank. I'm calling from the Law Office of Richard Sokoloff. This communication is from a debt collector. We've been advised telephone number 631-714-4672 belongs to Donald Krushel. I'm sorry Kruetel. This message is intended for Donald Kruetel only and is not placed for any other person. Mr. Kruetel I'm calling in regards to your account with Brookhaven Anesthesia Associates, which has been referred to Mr. Sokoloff. Please return my call at 631-223-7161 and please be advised that this is an attempt to collect a debt by a debt collector and any information will be used for that purpose.

My name is Mr. Frank. I'm calling from the Law Office of Richard Sokoloff. This communication is from a debt collector. I've been advised telephone number 714, I'm sorry 631-714-4672 belongs to Donald Kruetel. This message is intended for Donald Kruetel only and is not placed for any other person. Mr. Kruetel I'm calling in regards to your account with Brookhaven Anesthesia Associates, which has been referred to Mr. Sokoloff. Please return my call at 631-223-7161 and please be advised that this is an attempt to collect a debt by a debt collector and any information will be used for that purpose.

14. On at least one occasion, the Plaintiffs' friend who was temporarily living at the Plaintiffs' home while Plaintiffs were away, heard the message left by Defendant, and learned that the Defendant was attempting to collect the debt from the Plaintiffs.

15. The Defendant's conduct invaded the privacy protections afforded the Plaintiffs' through the FDCPA in that it announced to a third party that the Defendant debt collector was attempting to collect a debt from Donald Kruetel.

16. The Defendant had no reason to believe that the Plaintiffs were the only people who were within listening distance to the answering machine on which Defendant made their announcements.

17. The Plaintiffs never gave the Defendant authority to disclose the alleged debt to any person.

18. The Plaintiffs never gave Defendant consent to leave messages on the answering machine that Defendant called.

19. The Defendants sent the Plaintiffs the form debt collection letter attached as **Exhibit A** hereto.

20. Exhibit A falsely states that the both Plaintiffs owe a debt to a Brookhaven Anesthesia.

21. Exhibit A falsely states that the Defendant has a right to report the alleged debt onto the credit report of both Plaintiffs.

22. Exhibit A falsely indicates that Defendant sent a previous letter to the Plaintiffs.

23. Exhibit A is a form letter appearing on the letter head of an attorney's office. On information and belief this letter was not meaningfully reviewed by an attorney prior to being sent to Plaintiffs.

24. Defendant did not send the Plaintiffs the notices required by 15 USC 1692g.

**V. CAUSE OF ACTION UNDER THE FAIR DEBT COLLECTION  
PRACTICES ACT**

25. Plaintiffs repeats and re-alleges and incorporates by reference to the foregoing paragraphs.

26. Defendant's actions as described herein violated the following provisions of the FDCPA:

- a. 15 U.S.C Section 1692c(b)
- b. 15 U.S.C. Section 1692e
- c. 15 U.S.C Section 1692e(2)
- d. 15 U.S.C. Section 1692e(3)
- e. 15 U.S.C Section 1692e(5)
- f. 15 U.S.C. Section 1692e(10),
- g. 15 U.S.C. Section 1692f
- h. 15 U.S.C. Section 1692f(1); and
- i. 15 U.S.C Secion 1692(g)

**WHEREFORE**, Plaintiffs respectfully requests that judgment be entered against Defendants, for the following:

- A. Actual damages

- B. Statutory damages
- C. Costs and reasonable attorney's fees pursuant to the FDCPA;
- D. For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

Joseph Mauro (JM: 8295)  
The Law Office of Joseph Mauro, LLC  
306 McCall Ave.  
West Islip, NY 11795

**DEMAND FOR JURY TRIAL**

Please take notice that Plaintiff demands trial by jury in this action.

/s/ JOSEPH MAURO  
Joseph Mauro



# **EXHIBIT A**





Richard Sokoloff  
Attorney at Law  
990 S. SECOND STREET-SUITE 1  
RONKONKOMA, NY 11779  
PH: 1-(631) 696-8545 - FAX: 1-(888) 322-9957

DONALD KREUTEL  
TRACY KRUETEL  
510 OLD N OCEAN AVE  
PATCHOGUE, NY. 11772

September 28, 2014

RE.....: BROOKHAVEN ANESTHESIA ASSOC.,LLP  
PATIENT.....: SELF  
PLACEMENT BALANCE.: \$530.44  
COLLECTION CHARGES: \$.00  
PAYMENTS RECEIVED.: \$.00 FROM 09/11/13 THROUGH 09/28/14  
CURRENT AMOUNT DUE: \$530.44

PLEASE ASK FOR MRS. JAY AT PH#: 631-696-8545  
OUR ACCOUNT NUMBER: 99FCGP

DEAR DONALD KREUTEL :  
TRACY KRUETEL

PREVIOUSLY, I SENT YOU A LETTER REQUESTING THAT YOU CONTACT THIS OFFICE WITHIN 30 DAYS IF YOU DISPUTE THE ABOVE REFERENCED DEBT OR I WOULD ASSUME THE DEBT IS VALID. IT IS NOW OVER 30 DAYS LATER AND OUR RECORDS DO NOT INDICATE YOU HAVE DISPUTED THIS DEBT.

THEREFORE, PLEASE BE ADVISED THAT IF YOUR BALANCE IS NOT PAID IN FULL OR REASONABLE ARRANGEMENTS ARE NOT MADE, I WILL BE REPORTING THIS ACCOUNT AS "DELINQUENT" TO THE TRANS-UNION CREDIT REPORTING AGENCY.

THIS IS AN ATTEMPT TO COLLECT A DEBT BY A DEBT COLLECTOR AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

SINCERELY,

RICHARD SOKOLOFF, ESQ.  
RS:U02/CL/09/11/13/0242

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\*FOR YOUR CONVENIENCE, MY OFFICE ACCEPTS VISA, MASTERCARD, AMEX \*  
\*AND DISCOVER CREDIT CARDS. IF YOU PREFER TO PAY BY CREDIT CARD\*  
\*PLEASE EITHER CALL MY OFFICE AT 631-696-8545 OR COMPLETE THE \*  
\*QUESTIONNAIRE AND RETURN IT TO MY OFFICE. \*  
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AMOUNT YOU WOULD LIKE TO CHARGE \$\_\_\_\_\_. ATTORNEY ACCT #: 99FCGP  
NAME AS IT APPEARS ON CREDIT CARD: \_\_\_\_\_  
ADDRESS THAT STATEMENT IS SENT TO: \_\_\_\_\_

ACCOUNT NUMBER: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_. EXPIRATION DATE \_\_\_\_/\_\_\_\_/\_\_\_\_

SIGNATURE: \_\_\_\_\_ .TODAYS DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_  
DAY TIME PHONE NUMBER: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

NYC DEPT. OF CONSUMER AFFAIRS #: 1326774